

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0259 MVE

Motor Vehicle Excise Tax

For Tax Period: 12/31/93 Through 04/30/98

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Motor Vehicle Excise Tax – Imposition

Authority: IC 9-18-2-1

Taxpayer protests the imposition of the Motor Vehicle Excise Tax on his 1993 GMC.

II. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1

Taxpayer protests the imposition of a ten percent negligence penalty.

STATEMENT OF FACTS

Taxpayer was an Indiana resident throughout the assessment period. Taxpayer purchased the 1993 GMC in February, 1993. Taxpayer initially licensed and registered the vehicle in Indiana. Subsequently, taxpayer transferred title to Illinois where he licensed and registered the vehicle throughout the assessment period. Taxpayer owned and operated a construction business in Illinois from 1991 to 1997. Taxpayer was assessed the Motor Vehicle Excise Tax for the 1993 GMC. Additional facts will be provided below, as necessary.

I. Motor Vehicle Excise Tax – Imposition

DISCUSSION

Pursuant to Indiana Code Section 9-18-2-1, within sixty days of becoming an Indiana resident, a person must register all motor vehicles owned by that person that will be operated in Indiana.

Taxpayer protests the assessment of the Motor Vehicle Excise Tax on his 1993 GMC because he argues the vehicle was used in his business in Illinois. Taxpayer submitted pictures of the vehicle which illustrate it is the type of vehicle often used in construction-related work. Taxpayer claims the vehicle was used in his business and he believes he correctly licensed and registered the vehicle in Illinois as that was where his business was located.

Taxpayer concedes the vehicle was titled in his and his wife's name throughout the assessment period. The 1993 GMC was not titled to the construction business. The taxpayer also concedes the vehicle was used to commute between his home in Indiana and the business address in Illinois. As such, the Department finds the taxpayer owned the vehicle, the taxpayer was an Indiana resident and the taxpayer was required to license and register the vehicle in Indiana, pursuant to IC 9-18-2-1, as it was operated in Indiana.

FINDING

Taxpayer's protest is denied.

II. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the imposition of a ten percent penalty on his failure to pay the Motor Vehicle Excise Tax. Indiana Code Section 6-8.1-10-2.1(d) states:

If a person subject to the penalty imposed under this section can show that the failure to file a return, pay the full amount of tax shown on the person's return, timely remit tax held in trust, or pay the deficiency determined by the department was due to reasonable cause and not due to willful neglect, the department shall waive the penalty.

Taxpayer has proven to the Department's satisfaction that his failure to correctly license and register the 1993 GMC in Indiana throughout the assessment period was due to a reasonable belief that he had correctly licensed and registered the vehicle in Illinois.

FINDING

Taxpayer's protest is sustained.